

## **REMARKS**

### **Status of the Claims.**

Claims 21, 22, 24, 25, 26, 28, 41, 45 are pending with entry of this amendment, claims 1-20, 23, 27, 29-40, 42-44, and 46-50 being cancelled and no claims being added herein. Claims 1, 26, 28, 41, and 45 are amended herein. These amendments introduce no new matter. Support is replete throughout the specification (*e.g.*, in the claims as originally filed).

### **Election/Restriction.**

Pursuant to a restriction requirement made final, Applicants cancel claims 34-39, and 48-59 with entry of this amendment. Please note, however, that Applicants reserve the right to file subsequent applications claiming the canceled subject matter and the claim cancellations should not be construed as abandonment or agreement with the Examiner's position in the Office Action.

### **Information Disclosure Statement.**

Applicants note with appreciation the Examiner's thorough consideration of the references cited in the Information Disclosure Statement (Form 1449).

### **Objection to the specification.**

The Examiner requested that the first line of the specification be updated to reflect the current status of the priority documents. Paragraph 0001 as page 1 is so amended thereby obviating this objection.

It is noted that the intervening application (08/665,202, now U.S. Pat. No. 5,977,322) was inadvertently omitted from the priority claim although the ultimate priority documents (60/000,238 and U.S.S.N. 60/000,250) were clearly referenced. Accordingly correction is made in the priority claim. In this regard, a Petition To Accept Unintentionally Delayed Priority Claim Under 37 C.F.R. §1.78(A)(3) has been filed with the Petitions Branch and a copy of this petition is provided herewith.

In addition, replacement Application Data Sheets reflecting this correction are provided herewith.

### **Claim objections.**

Claims 42 and 47 were objected to because they are duplicates of claim 45. Claims 46 and 47 are canceled herein thereby obviating this objection.

Claim 27 was objected to because the word "the" is duplicated. The second occurrence of the word "the" is deleted herein thereby obviating this rejection.

**35 U.S.C. §101.**

Claims 21-27 were rejected under 35 U.S.S. §101 because the claims allegedly do not distinguish over nucleic acids as they exist naturally. To expedite prosecution, claim 21 is amended herein to recite "an isolated" nucleic acid thereby obviating this rejection.

Applicants note, however, that this amendment is made without prejudice and is not to be construed as abandonment of the previously claimed subject matter or agreement with the Examiner's position.

**35 U.S.C. §112, Second Paragraph.**

Claims 21-28, 41, and 45-47 were rejected under 35 U.S.C. §112, second paragraph, as allegedly indefinite of the recitation of the term "C6 antibody" and "C6.5 antibody" as the sole means of identifying the claimed molecule. The independent claims are amended herein to recite specific SEQ ID NOs to identify the claimed molecule thereby obviating this rejection.

**35 U.S.C. §112, First Paragraph.**

Claim 28 was rejected under 35 U.S.C. §112, first paragraph, as allegedly not enabled. In particular, the Examiner alleged that the claim read on a cell within a transgenic animal. To expedite prosecution, claim 28 is amended herein to recite an "isolated cell" thereby obviating this rejection.

Claim 23 was rejected under 35 U.S.C. §112, first paragraph, as allegedly not enabled. Claim 23 is canceled herein thereby obviating this rejection.

Applicants note, however, that these amendments and claim cancellations are made without prejudice and are not to be construed as abandonment of the previously claimed subject matter or agreement with the Examiner's position.

**35 U.S.C. §102.**

Claims 21-22, 24-28, 41, and 45-47 were rejected under 35 U.S.C. §102(a) as allegedly anticipated by Schier *et al. Immunotechnology*, 1: 73-81. It is noted that Schier *et al.* appears to have been published in May 1995.

The present application claims priority to June 14, 1995 (see first paragraph of application as filed), less than 1 year prior to Applicants filign date.

Accordingly, upon a showing of otherwise allowable subject matter, Applicants will provide Declarations in accordance with *In re Katz*, signed by the inventors of the present application, establishing that the Schier *et al.* article describes Applicants' own work and thereby obviate this reference.

35 U.S.C. §103(a).

Claims 21-22, 28, 41, and 45-48 were rejected under 35 U.S.C. §103(a) as allegedly obvious in light of U.S. Patent No: 56,165,464 in combination with Wels *et al.* (1992) *J. Steroid Biochem. Mol. Biol.*, 43(1-3): 1-7 and Marks *et al.* (1992) *Biotechnology*, 10: 779-783. Applicants traverse.

The independent claims, as amended herein recite particular amino acid sequences specifically identified by SEQ ID NOs. The cited references offer no teaching or suggestion of these particular sequences. Accordingly, the references fail to teach or suggest the presently claimed invention and the rejection on these grounds should be withdrawn.

In view of the foregoing, Applicants believe all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested. Should the Examiner seek to maintain the rejections, Applicants request a telephone interview with the Examiner and the Examiner's supervisor.

If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (510) 769-3513.

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Respectfully submitted,



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